



STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
LOUISIANA BOARD OF ETHICS
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June 1, 2010

J.S. "Bud" Thompson, Jr.
Post Office Box 91106
New Orleans, LA 70821

Re: Ethics Board Docket No. 2010-352

Dear Mr. Thompson:

The Louisiana Board of Ethics, at its May 21, 2010 meeting, considered your request for an advisory opinion pertaining to issues regarding privatization of some of the services provided by the Office of Risk Management and the propriety of its employees affected by privatization being employed with the person who will receive the contract to provide the services formerly provided by the employees of ORM. The Board in BD 2009-934 concluded that based on unique circumstances of the privatization of governmental services, the Code did not, in those instances, prohibit the former employees from being employed by possible vendors of those services.

ORM is now requesting an opinion regarding two questions that have arisen since the Board's opinion in BD 2009-934. The first question is whether an employee who was affected by the privatization but who retired prior to the layoff would be eligible to work for the vendor of the ORM contract. The second question is whether employees not affected by the privatization may work for the vendor on the ORM contract?

Section 1121B of the Code prohibits a former public servant for a period of two years following the termination of his public service from assisting another person for compensation in a transaction in which the former public servant participated at any time during his public service and involving his former agency and from rendering any service which such former public employee had rendered to the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with which he was formerly employed. Section 1112B(4) prohibits a public servant from participating in a governmental transaction in which a person with whom they are negotiating for future employment has a substantial economic interest.

The Board in BD 2009-934 concluded that based on unique circumstances of the privatization of governmental services such as those performed by the ORM, Section 1121 of the Code did not, in those instances, prohibit the former employees from being employed by private entities since their former agency no longer provides such services, provided the former employees do not participate in the governmental entities decision to privatize the facilities. These circumstances are not altered by an employee's resignation prior to a layoff due to the privatization. However, an employee who

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is not affected by the privatization is prohibited by Section 1121B from working for the vendor to assist it in transactions involving his former agency in which he participated and from providing services which he rendered to ORM during his public employment on a contractual basis to or for the agency.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Sincerely,

LOUISIANA BOARD OF ETHICS



Alesia M. Ardoin
For the Board